IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3762 OF 2005

1.Smt. Rajeshree Rajaram Ghude
& Ors. ...Petitioners.
V/s.
The State of Maharashtra & Ors. ...Respondents.

Ms.Jyoti Chavan for Petitioners.

Mr.C.R.Sonawane, A.G.P. for Respondent Nos.1 to 3.

Mr.S.P.Thorat for Respondent Nos.4 and 5.

CORAM: H.L.GOKHALE &
J.H.BHATIA, JJ.
DATE : 7th July, 2006.

ORAL ORDER: (Per H.L.Gokhale, J.)

1. Heard Ms.Jyoti Chavan in support of this Petition. Mr.Sonawane, A.G.P. appears for the Respondent Nos.1, 2 and 3. Mr.Thorat appears for the Respondent Nos.4 and 5.

2. The Petitioners, herein are 37 ladies who claim to be working at different villages in Shahapur and Murbad Talukas of Thane District for a number of years as Balwadi Sevikas. The Petitioners are aggrieved by the denial of the Respondents to appoint them or to convert their services from those of Balwadi Sevikas into those of Anganwadi Sevikas. They point out that an advertisement was issued for the appointment to the post of Anganwadi

Sevikas on 11th January, 2005 by the concerned officers in charge of Child Development Project of Murbad. They appeared for those interviews but having been denied the conversion to the posts of Anganwadi Sevikas, they point out that this is being done on the basis of a Government Resolution which has been issued subsequently on 9th February, 2005. Amongst other prayers, the Petition seeks to challenge this Government Resolution of 9th February, 2005. It is submitted by Ms.Chavan,the learned counsel for the Petitioners, that inasmuch as the Petitioners were appointed prior to the said resolution under the rules existing earlier at the time when the advertisement was issued, the same will have to be looked into. The Petition was filed on 27th May, 2005 after the interviews were held in January/February, 2005. The Division Bench of this Court passed an order on 13th July, 2005 directing Respondents not to make any further appointments to the post of Anganwadi Sevikas in Murbad and Shahapur areas. Notice was directed to be issued to the Respondent No.1 indicating that the Petition may be disposed of at the admission stage itself.

3. Reply has been filed by one, Mrs.Pranali Chitnis Under Secretary to the Government affirmed on 23rd June, 2006. Extracts from the Manual on Integrated Child Development Services has been annexed to this affidavit as

also the Government Resolution dated 9th February, 2005. As far as the conditions of eligibility for the appointment to the post of Anganwadi Sevikas is concerned, in this affidavit paragraph 6 very fairly refers to Guide-lines No.5:25 of the manual which reads as follows:

> "The Anganwadi worker who should be a village level worker would be responsible for the delivery of various services envisaged under the scheme. The Anganwadi worker is to be an honorary worker and will be paid honorarium at the rate of Rs.175 per month if she is a matriculate, and Rs.125/- per month if she is a non-matriculate. It would be preferable to select matriculates as Anganwadi workers. Alternatively, the Anganwadi worker should at least have passed standard VIII. However, where even a standard VIII passed Anganwadi worker is not available, less educated or even illiterate semi-literate but intelligent woman from the same village may be appointed as Anganwadi worker."

4. From these Guide-lines, it is very clear that when this Scheme was promulgated, the requirement of eligibility was that Anganwadi Sevika should atleast have passed standard VIII examination if not matriculate. It

is further stated thereafter, which is very relevant, as follows:

> " However, where even a standard VIII passed Anganwadi worker is not available, less educated or even illiterate semi-literate but intelligent woman from the same village may be appointed as Anganwadi worker."

Anganwadi Sevikas are required to look after the children who come to the unit, feed them and teach them basic alphabets. In the instant case, all the Petitioners have passed 7th standard examination though not 8th. The affidavit filed on behalf of the State points out in paragraph 2 as to what are the expectations from Sevikas. They are essentially to improve the nutritional and health status of children in the age group of 0 to 6 years and to lay the foundations for proper psychological, physical and social development of the child. It is from this point of view that even illiterate semi-literate women who are otherwise intelligent are permitted to take up these responsibilities. As stated above, in the instant case, all the Petitioners have passed 7th standard examination.

5. As stated above, in the instant case, an advertisement was given on 11th January, 2005. The

subsequent Government Resolution dated 9th February, 2005 though states that it is in supersession of earlier Government Resolution, all that, it refers is to the Integrated Child Development Scheme in paragraph 4 and then states that whatever are the conditions thereunder for Anganwadi Sevikas will have to be fulfilled by the candidate concerned for appointment. As noted earlier, under the Central Government Scheme, semi-literate intelligent women are also entitled to be appointed on these posts. In any case, we are concerned with selections made prior to the State Government Resolution of 9th February, 2005.

6. Mr.Sonawane, the learned A.G.P. referred to the chart from the selection committee and has very fairly stated that out of these 37 petitioners, only 2, i.e., Petitioner No.16-Smt. Shakuntala Barku Rohane and Petitioner No.26-Smt.Savita Manohar Harne could be stated to have shortfall in their experience. Smt.Shakuntala Rohane had joined on 4th August, 2003 whereas, Savita Harne had joined on 3rd June, 2004. The earliest State Government Resolution of 24th October, 1994 requires a Balwadi Sevika to be converted into Anganwadi Sevika to have experience of 2 years. That position has been continued in the subsequent Government Resolutions and, therefore, these two Petitioners will have a shortfall as

far as requirement of experience is concerned. It is material to note that these Government Resolutions also provided for relaxation of educational qualification where they had more than two years experience.

7. This position continued under the Government Resolution of 31st August, 1999 and as also of 28th November, 2000 which in fact permitted a relaxation from the requirement of two years experience where the concerned Balwadi Sevikas were in service. As far as the above referred two Petitioners are concerned, they were not in service on the date of these Government Resolutions and therefore they cannot get the benefit of these Government Resolutions. Ms.Chavan appearing for the Petitioners states that these two also have earlier appointment letters. It will be open to them to tender those letters to the authorities concerned and in which case authorities will certainly look into their case sympathetically.

8. From the narration of facts above, it is clear that the Petitioners herein except the above two are clearly eligible to the conversion of their posts from those of Balwadi Sevikas to that of Anganwadi Sevikas, in fact, without calling them for interviews by the Respondents. But since they have appeared for the

interviews, it was expected from the Selection Committee that they should have been selected and appointed as Anganwadi Sevikas. In fact, we have pointed out that the Selection Committee did select them for the concerned posts and their names were recommended, but the Project Officer, Zilla Parishad did not issue appointment letters and, therefore, this Petition was required to be filed.

9. As stated above, the Petitioners have made out a case for their regularisation and conversion to the posts of Anganwadi Sevikas except the 2 Petitioners as stated above though we are permitting them to tender their documents to the authorities concerned.

10. Mr.Sonawane, A.G.P. and Mr.Thorat appearing for the Zilla Parishad have drawn our attention to the order passed by Division Bench in Writ Petition No.6784 of 2005 in the case of one Hirabai Vitthal Thakare which was rejected on 12th January, 2006 at the admission stage. The Order states that the Anganwadi Sevikas should have necessary eligibility to get direct appointment in that post. It further states that the Petitioner therein, who was appointed earlier as Assistant, did not possess minimum requirement of having passed VIII standard. It is not stated therein as to how much was the experience of the Petitioner nor the provisions of the Central

Government Scheme have been pressed into service by the Petitioner. In the circumstances, this order will have to be construed as order in the facts of that case. The earlier Government Resolutions and the effect thereof were also not pressed into the service before the Division Bench.

11. For the reasons stated above, we allow this Petition and direct the Respondents to convert the Petitioners to the posts of Anganwadi Sevika from the date on which they completed two years of experience. Ms.Chavan appearing for the Petitioners, however, has fairly stated that as far as the monetary benefits are concerned, the Petitioners were pressing for them only from the time they were called for interviews and were infact selected by the Selection Committee. That will mean that they will have to be paid correct honorarium from February, 2005. It is material difference as far as these Sevikas are concerned inasmuch as Anganwadi Sevika get honorarium of Rs.1400/- per month whereas Balwadi Sevikas are paid only Rs.500/-. We direct the Respondents to clear the arrears within two months and start paying correct honorarium from the month of July, 2006 payable in August, 2006..

12. The Petition is allowed in above terms with no

order as to costs.

...

(H.L.GOKHALE,J.)

(J.H.BHATIA, J.)